

PHARMACY EXAMINING BOARD
REGULAR MEETING
JANUARY 10, 2001

MEMBERS PRESENT: Cynthia Benning, RPH; Michael Bettiga, RPH; John Bohlman, RPH; Georgina Forbes; Dan Luce, RPH; Charlotte Rasmussen; Sue Sutter, RPH

LEGAL COUNSEL: William Black

STAFF PRESENT: Patrick D. Braatz

GUESTS: Larry Edwards, DOC; Michael Whittlinger, Dana Williamson, Wylie Lom, Megan Krueger, Sara Stichert, M. Thurben, Dan Pfister, Frank Sngreh, Scott Fortney, Tamara Raun, Gina Kasper and Laurie Wagner, UW School of Pharmacy; Susan Kleppin and Tom Engels, PSW; Jamie Statz Paynter, Dean Pharmacy; Todd Tomeh, Shopko; Greg Arnold, U of MT School of Pharmacy; Franklin LaDien, Walgreens; Jeff Appel, Knoll Pharmaceutical

CALL TO ORDER

Chair John Bohlman called the meeting to order at 9:10 a.m.

APPROVAL OF AGENDA

Amendments: - To add a discussion with prosecuting Attorney Arthur Thexton regarding
A forfeiture schedule regarding violation of the security requirements
- Sue Sutter asked that the Board review their exam dates for 2001.

MOTION: Cynthia Benning moved, seconded by Michael Bettiga, to approve the agenda as amended. Motion carried unanimously.

ELECTION OF OFFICERS

MOTION: Sue Stutter moved, seconded by Michael Bettiga, to nominate John Bohlman as Chairman. Motion carried unanimously.

MOTION: Dan Luce moved, seconded by Michael Bettiga, to nominate Sue Sutter as Vice-Chairman. Motion carried unanimously.

MOTION: Cynthia Benning moved, seconded by Charlotte Rasmussen, to nominate Georgina Forbes as Secretary. Motion carried unanimously.

APPOINTMENT OF COMMITTEES

Chairman John Bohlman re-appointed all members of the committees as they were in 2000.

APPROVAL OF MINUTES OF DECEMBER 11, 2000

Corrections: -On page 2, regarding the public hearing on consultation rules, change the title to read "PUBLIC HEARING ON PROPOSED RULES RELATING TO THE CONSULTATION PORTION OF THE EXAM AND LICENSURE REQUIREMENTS".

-On page 2, regarding the public hearing on supervising pharmacy technicians rules, change the title to read "PUBLIC HEARING ON PROPOSED RULES RELATING TO SUPERVISING PHARMACY TECHNICIANS".

-On page 4 regarding correspondence relating to pharmacy clerkship, add the sentence, "Board members are willing to allow students doing a clerkship to shadow board members."

-On page 4, under REPORT OF CONTROLLED SUBSTANCES BOARD, change the second sentence to read, "...to Aldrich Chemical to possess GBL." Following that sentence add, "Rules are being developed to add GBL as a List I Chemical rather than a Class I Drug."

-On page 5 regarding WOMEN'S INTERNATIONAL PHARMACY, CAROL L PETERSON, RPH, AND WALLACE L SIMONS, RPH, please note that John Bohlman and Cynthia Benning were not present during the deliberation of this matter.

MOTION: Michael Bettiga moved, seconded by Sue Sutter, to approve the Minutes of December 11, 2000 as corrected. Motion carried unanimously.

SECRETARY CUMMINGS

Secretary Cummings informed the Board that she will be retiring from the Department on February 25, 2001 after 14 years as Secretary of the Department. She will be spending more time with her grandchildren and writing short stories. The Board wished her well in her retired life.

PRESENTATION OF PROPOSED STIPULATIONS

There were no stipulations.

DISCUSSION REGARDING A POLICY ON FORFEITURE FOR PHARMACIES FAILING TO HAVE AN ALARM SYSTEM

MOTION: Dan Luce moved, seconded by Michael Bettiga, to set the forfeiture fee at \$10.00 per day plus costs for failure to have an alarm system as required by Wis. Adm., Code Phar 6.08. Motion carried unanimously.

REPORTS ON PENDING COURT CASES, DISCIPLINARY CASES AND
ADMINISTRATIVE RULES

The January report was not available at this time.

WRITTEN COMMENTS RELATING TO PROPOSED RULE CHANGES TO ELIMINATE
THE ORAL CONSULTATION EXAM PRIOR TO LICENSURE AND
THE PHARMACIST TO TECHNICIAN RATIO

The written comments were reviewed and noted by the Board.

REVIEW OF FINAL DRAFT OF PROPOSED RULE REVISIONS AND CLEARINGHOUSE
COMMENTS AND SUBMIT FINAL RULE TO LEGISLATIVE COMMITTEE
RELATING TO ORAL CONSULTATION EXAM

MOTION: Dan Luce moved, seconded by Michael Bettiga, that the Board accept section 9 as presented. Roll call vote: Charlotte Rasmussen – no, Sue Sutter – yes, Michael Bettiga - yes, Dan Luce – yes, Cynthia Benning – no, Georgina Forbes – no, John Bohlman - yes. Motion carried 4 to 3.

MOTION: Dan Luce moved, seconded by Sue Sutter, that, if the rule is adopted, the first renewal period after adoption pharmacists will be required to complete five (5) hours of their continuing education in the area of consultation. Motion carried unanimously.

MOTION: Charlotte Rasmussen moved, seconded by Cynthia Benning, to table the rule indefinitely. Roll call vote: Charlotte Rasmussen – yes, Sue Sutter – no, Michael Bettiga – no, Dan Luce – no, Cynthia Benning – yes, Georgina Forbes – yes, John Bohlman - no. Motion failed.

MOTION: Charlotte Rasmussen moved, seconded by Cynthia Benning, to table the rule until the March Board meeting. Roll call vote: Charlotte Rasmussen – yes, Sue Sutter – no, Michael Bettiga – no, Dan Luce – no, Cynthia Benning – yes, Georgina Forbes – yes, John Bohlman - no. Motion failed.

MOTION: Dan Luce moved, seconded by Michael Bettiga, to move the rule forward to Legislature as presented to the Board today. Roll call vote: Charlotte Rasmussen – no, Sue Sutter – yes, Michael Bettiga – yes, Dan Luce – yes, Cynthia Benning – no, Georgina Forbes - no, John Bohlman - no. Motion failed.

MOTION: Sue Sutter moved to have William Black develop for the Board a new scope statement. Died for a lack of a second.

MOTION: Sue Sutter moved, seconded by Michael Bettiga, to have William Black develop a new scope statement that will allow the Board to develop rules to redefine the active practice of pharmacy, requirements for equivalency examination and the competency tested and the chair will approve the statement for publication. Roll call vote: Charlotte Rasmussen – yes, Sue Sutter – yes, Michael Bettiga – yes, Dan Luce – yes, Cynthia Benning – no, Georgina Forbes - no, John Bohlman - yes. Motion carried 5 to 2.

MOTION: Sue Sutter moved, based on the interpretation recently given by legal counsel William Black, that the consultation examination not be given to reciprocal/endorsement candidates. Died for a lack of a second.

REVIEW OF FINAL DRAFT OF PROPOSED RULE REVISIONS AND CLEARINGHOUSE COMMENTS AND SUBMIT FINAL RULE TO LEGISLATIVE COMMITTEE RELATING TO PHARMACIST TO TECHNICIAN RATIO

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to amend section 7.01(3) to read “4 pharmacy technicians” and further have the words “pharmacy technicians” replace “non-pharmacists”. Motion carried unanimously.

MOTION: Sue Sutter moved, seconded Cynthia Benning, to send the rule to the Legislature. Motion carried unanimously.

REVIEW OF FINAL DRAFT OF PROPOSED RULE RELATING TO SUPERVISION AND SUBMIT FINAL RULE TO LEGISLATIVE COMMITTEE

MOTION: Cynthia Benning, seconded by Dan Luce, to delete the word “practice” and replace with “activities” and in 7.01(c) place a period after “prescription” and delete the rest of the paragraph, and send the rule to the Legislature. Motion carried unanimously.

REVIEW OF PROPOSED RULE CHANGES IN CHAPTER PHAR 7 RELATING TO PHARMACY PRACTICE DEFINITIONS

Deferred to February meeting.

REVIEW OF PHAR 6.06 RELATING TO MINIMUM EQUIPMENT

MOTION: Charlotte Rasmussen moved, seconded by Cynthia Benning to approve the draft rule change to Phar 6.06 with change in (1) (j) of the word “revision” changed to “version”, and move the rule to the Clearinghouse. Motion carried unanimously.

DISTRIBUTOR/MANUFACTURER'S APPLICATIONS

MOTION: Michael Bettiga moved, seconded by Dan Luce, to approve the distributor/manufacture's applications of **Anda, Inc., FL; Apria Healthcare, Green Bay; Apria Healthcare, Rice Lake; Adley Pharmaceuticals, VA; Belco Drug Corp, NY; Glaxo Wellcome, NC; Nelson Laboratories Limited Partnership, SD; PCCA, TX; VIP, NY and Apria Healthcare, Green Bay.** Motion carried unanimously.

BOHLMAN DRUGSTORE, BOSCOBEL; FENNIMORE PHARMACY SERVICES,
FENNIMORE; AND INFUSION/PHARMACY SERVICES, BOSCOBEL,
VARIANCE REQUEST

Deferred to the February meeting.

SAMARITAN HEALTH CENTER, WEST BEND
STRUCTURAL ISOLATION RESPONSE

Legal counsel will prepare the board's response.

BEAVER DAM COMMUNITY HOSPITAL, BEAVER DAM, VARIANCE REQUEST

Legal counsel will prepare the board's response.

BELOIT MEMORIAL HOSPITAL, BELOIT, VARIANCE REQUEST

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to approve the variance for Beloit Memorial Hospital as requested. Motion carried unanimously.

PRESCRIPTION SIGNATURES

Deferred to the February meeting.

PRACTICE QUESTIONS

Legal counsel will prepare responses.

NABP – NOMINATIONS FOR HONORARY PRESIDENT

There are no nominations from Wisconsin.

NABP – NUCLEAR PHARMACY COMPOUNDING GUIDELINES

This item was informational.

NABP – BEYOND-USE DATES ON LABELING ON PRESCRIPTION MEDICATIONS

This item was informational.

IDEAS FOR NABP EXECUTIVE COMMITTEE SELECTION

This item was informational.

NACDS PRIORITIES

This item was informational.

REPORT OF PHARMACY INTERNSHIP BOARD

No report at this time.

REPORT OF CONTROLLED SUBSTANCES BOARD

No report at this time.

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to set an examination date on July 9, 2001. Motion carried unanimously.

RECESS TO CLOSED SESSION

MOTION: Sue Sutter moved, seconded by Charlotte Rasmussen, to recess to closed session pursuant to Chapter 19.85(1)(a), (b), (f) and (g), Wis. Stats., for the purpose of deliberation of a proposed decision, considering requests for three month stays of suspensions and modifications in board orders, reviewing a board order, appearance relating to an administrative warning, reviewing case status reports, discussion of exam issues and consulting with legal counsel. Roll call vote: John Bohlman – yes, Sue Sutter – yes, Michael Bettiga – yes, Cynthia Benning – yes, Charlotte Rasmussen – yes, Georgina Forbes - yes. Motion carried unanimously.

Open session recessed at 2:40 p.m.

RECONVENE IN OPEN SESSION

MOTION: Michael Bettiga, seconded by Georgina Forbes, to reconvene in open session. Motion carried unanimously.

Open session reconvened at 4:30 p.m.

VOTING ON ITEMS CONSIDERED/DELIBERATED ON IN CLOSED SESSION

PROPOSED DECISION

WALLACE L SIMONS, CAROL L PETERSEN AND WOMEN'S INTERNATIONAL
PHARMACY, INC

John Bohlman and Cynthia Benning left the room prior to, and were absent during, deliberation and voting. Sue Sutter assumed the Chair in John Bohlman's absence.

MOTION: Dan Luce moved, seconded by Michael Bettiga, to approve the Finding of Fact in the matter concerning Wallace L. Simons, Carol L. Peterson and Women's International Pharmacy, Inc. Roll call vote: Charlotte Rasmussen – yes, Sue Sutter – yes, Michael Bettiga - yes; Dan Luce – yes, Georgina Forbes – yes. Motion carried.

MOTION: Michael Bettiga moved, seconded by Charlotte Rasmussen, to approve the Conclusions of Law in the matter concerning Wallace L. Simons, Carol L. Peterson, and Women's International Pharmacy, Inc. Roll call vote: Charlotte Rasmussen – yes, Sue Sutter – yes, Michael Bettiga - yes; Dan Luce - yes; Georgina Forbes -yes. Motion carried.

MOTION: Michael Bettinga moved, seconded by Charlotte Rassmussen, to modify the proposed Order in the matter concerning Wallace L. Simons, Carol L. Peterson, and Women's International Pharmacy, Inc. as follows: replace proposed paragraph "C" by the administrative law judge will not be adopted and the original paragraph "C" will be remain in full force; the recommendation for suspension of Wallace L. Simons is changed to a reprimand; the remainder of the order is adopted as proposed by the administrative law judge. Roll call vote: Charlotte Rasmussen – yes, Sue Sutter – yes, Michael Bettiga – yes, Dan Luce – yes, Georgina Forbes yes. Motion carried.

John Bohlman and Cynthia Benning returned to the meeting. John Bohlman resumed as Chair.

REQUESTS FOR STAYS OF SUSPENSIONS/MODIFICATIONS IN BOARD ORDERS

GREGORY KUJAWA, RPH

MOTION: Georgina Forbes moved, seconded Charlotte Rasmussen, to grant a three-month stay of suspension to Gregory Kujawa, R.Ph. Motion carried unanimously.

JOHN LITZENBERG, RPH

MOTION: Michael Bettiga moved, seconded Cynthia Benning, to grant a three-month stay of suspension for John Litzenberg, R.Ph., but deny his request for a change in hours as pharmacist-in-charge and the elimination of the requirement of controlled substances audit. Dan Luce abstained. Motion carried.

REVIEW OF BOARD ORDER

JOHN SCHMITT, RPH

MOTION: Cynthia Benning moved, seconded by Sue Sutter, to terminate the stay of suspension for John Schmitt, R.Ph., based on a violation of his board order. Michael Bettiga abstained. Motion carried.

ADMINISTRATIVE WARNING

MOTION: Dan Luce moved, seconded by Cynthia Benning, to issue an administrative warning regarding complaint **98 PHM 062**. Motion carried unanimously.

CASE STATUS REPORT

No cases presented for closing.

GRANTING OF LICENSES

MOTION: Dan Luce moved, seconded by Michael Bettiga to grant licenses to the candidates who passed the examination. Motion carried unanimously.

INFORMATIONAL ITEMS

ADJOURNMENT

MOTION: Georgina Forbes moved, seconded by Michael Bettiga, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 4:40 p.m.

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